

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

In re: OHIO EXECUTION  
PROTOCOL LITIGATION,

: Case No. 2:11-cv-1016

Chief Judge Edmund A. Sargus, Jr.  
Magistrate Judge Michael R. Merz

This Order relates to Plaintiff  
Cleveland Jackson

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**ORDER TO SET *DAUBERT* HEARINGS FOR MARK A. EDGAR,  
M.D., AND JOSEPH M. ANTOGNINI, M.D.**

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On August 7, 2019, Defendants filed a Motion *in Limine* to Exclude the Testimony of Plaintiff Cleveland Jackson's Expert Mark A. Edgar, M.D. ("Edgar Motion," ECF No. 2314), and Jackson filed a Motion *in Limine* to Exclude and/or Limit the Testimony of Defendants' Expert Joseph M. Antognini, M.D. ("Antognini Motion," ECF 2318). The bases of both Motions were Fed.R.Evid. 702 and the principles set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993) (Edgar Motion, ECF No. 2314, PageID 112097; Antognini Motion, ECF No. 2318, PageID 112732). District courts are not obliged to hold an actual hearing to make a determination under *Daubert*. *Greenwell v. Boatwright*, 184 F.3d 490 (6<sup>th</sup> Cir. 1999). But after considering the Motions, the memoranda *contra* (ECF Nos. 2343, 2346), and reply memoranda (ECF Nos. 2361, 2364), the undersigned concludes that *Daubert* hearings are necessary to adjudicate both Motions.

Accordingly, counsel for the parties are ORDERED to consult with each other and their respective experts, and jointly propose at least two (2) dates on which Drs. Edgar and Antognini would be available for *Daubert* hearings no later than 5:00 p.m. on Wednesday, August 21, 2019.

August 19, 2019.

s/ ***Michael R. Merz***  
United States Magistrate Judge